

SUBCOMMITTEE NO. 2

Agenda

Sheila Kuehl, Chair
Bob Dutton
Alan Lowenthal



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Resources—Environmental Protection—Energy

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0555 Secretary for Environmental Protection

1. Enforcement Initiative

Cal-EPA Enforcement Initiative. The Cal-EPA Secretary is currently implementing an enforcement initiative to help improve the state's enforcement efforts. The Secretary has reported that they are working to improve their management of information in order to better prioritize their enforcement activities based on the greatest risks to the environment. The Secretary has also indicated that they are working on several other efforts to improve enforcement of the state's environmental laws.

Previous Subcommittee Direction. At the April 4 meeting of the Subcommittee, the Secretary was requested to report on how Cal-EPA plans to finance its enforcement initiative and to identify specific staffing and funding needed to effectively implement the enforcement initiative.

Agency Response. The Office of the Secretary for Cal-EPA has not provided specific staffing or funding information related to its enforcement initiative. However, the agency indicates that the enforcement initiative is being conducted using existing resources and that the agency is aligning priorities and fostering cross-organization synergies to achieve its objectives.

Furthermore, the Office of the Secretary for Cal-EPA indicates that the Secretary has designated a lead person to coordinate 11 separate enforcement related projects and that several cross-organization meetings have been held to initiate development and implementation of these projects. The projects include the following:

- Development of a single complaint tracking system agency wide.
- Development of a model enforcement program operational plan that will serve as a template for all enforcement programs in the agency.
- Development of a model enforcement intelligence team that will serve all regulatory programs in identifying high risk violators.
- Development of a pilot project to create an agency wide data dictionary. This pilot is part of a larger multi-phased project to integrate data collected by all programs agency wide.
- Review of the U.S EPA's Facility Registry System Number system that is used for tracking regulated facilities to identify how this system may be implemented within Cal-EPA.
- Review of the existing Environmental Information Exchange Network to enhance its current application within U.S. EPA and Cal-EPA.
- Coordination of Cal-EPA's GIS software licensing agreements into one master agreement.
- Development of an agency wide training strategy.
- Creation of regional training centers throughout the state.
- Development of a workgroup that addresses improvement of the enforceability of permits and regulations.
- Development of a communications strategy for providing information on enforcement actions to the public to help deter violations.

Staff Recommendation. Staff recommends that the Subcommittee adopt supplemental report language that requires that the office of the Cal-EPA Secretary provide an update to the Legislature on the status of implementing its enforcement initiative in conjunction with the 2006-07 budget. This report should include (1) how the 2006-07 budget facilitates the implementation of the enforcement initiative and (2) examples of specific metrics that will be used to track improvements in the performance of enforcement programs agency wide.

2. Climate Change Activities

Background. In the 2004-05 budget trailer bill, the Secretary for Cal-EPA was designated as the lead for the state's climate change activities.

Previous Subcommittee Direction. At the April 4 meeting of the Subcommittee, the Secretary was requested to report on the universe of state activities being conducted as part of the California Climate Coordinating Council.

Agency Response. The Office of the Secretary for Cal-EPA indicates that it has begun work to implement the following actions:

- Support for California's motor vehicle greenhouse gas emissions regulations.
- Support for the state's accelerated Renewable Portfolio Standard and energy conservation measures.
- Development of a "scenario analysis" to evaluate the environmental and economic consequences of climate change in California, including the evaluation of the adoption of specific measures.
- Leading an intergovernmental working group to evaluate options for a comprehensive greenhouse gas (GHG) cap-and-trade program for the state.

Climate Action Registry. The California Climate Action Registry was established under SB 1771 (Chapter 124/Statutes of 2000) as a non-profit voluntary registry for GHG emissions. The purpose of the Registry is to help companies and organizations with operations in the state to establish GHG emissions baselines against which any future GHG emission reduction requirements may be applied. The Registry encourages voluntary actions to increase energy efficiency and decrease GHG emissions. The Secretary for Cal-EPA is Chairman of the Board of Directors for the Climate Action Registry.

For the past two years, the Legislature has provided \$200,000 in funding to assist the Climate Action Registry to implement its duties under current law. The Registry activities have grown as its membership has grown and needs additional funding to manage its programs in the budget year. These funds have been provided from the Public Interest Energy Research (PIER) Development and Demonstration Account for the past two years.

Staff Recommendation. Staff recommends that the Subcommittee transfer \$1 million of PIER funding from the Energy Commission to the Secretary for Cal-EPA to implement the state's Climate Change Activities. Approximately \$500,000 should be provided as a contract to the Climate Action Registry to support its operations. The remaining \$500,000 should support public

interest energy research related to climate change in the Office of the Secretary for Cal-EPA. The following budget bill language should be adopted to accomplish this shift.

0555-001-0381—For support of Secretary of Environmental Protection,
payable from the Public Interest Research, Development and Demonstration
Fund, for climate change-related activities.....\$1,000,000

Provisions

1. Of the amount appropriated in this item, (1) up to \$500,000 is for a grant to the California Climate Action Registry to support research related program activities and (2) remaining funds are to support public interest energy research at the Office of the Secretary on the effects of energy generation on climate change.

3. Reducing Air Emissions by 50 percent by 2010

Background. The Governor has set, as one of his goals, reducing air emissions by 50 percent by 2010. In 2004, legislation was enacted to provide approximately \$80 million annually to the Carl Moyer program to help reduce diesel emissions. Legislation also enabled local governments to raise up to \$55 million annually to help reduce emissions. In addition, the state is continuing to implement State Implementation Plans to reduce ozone and particulate matter in federal non-attainment areas in order to comply with federal law.

Previous Subcommittee Direction. At the April 4 meeting of the Subcommittee, the Secretary was requested to report back on what they are doing to address the growing sources of emissions related to ports, rail, and the state's trucking systems.

Agency Response. The Office of the Secretary for Cal-EPA has indicated that the ARB has already, or is scheduled to adopt within the next two years, regulations that will reduce emissions by 1,500 tons per day by 2010. This is approximately 50 percent of what is needed to sufficiently reduce air emissions by 2010. The ARB is currently working on developing the next phase of the state's emission reduction strategy that will include a mix of new regulations, incentive programs, and reductions from federal sources. A central part of this next phase is the administration's Goods Movement Action Plan that is identifying reduction opportunities within the state's ports, rails, and trucking system. The administration indicates that it will release this plan next month.

Furthermore, the Office of the Secretary for Cal-EPA indicates that federal sources of emissions are a big part of the problem, accounting for nearly 30 percent of California's statewide emissions of nitrogen oxides. The administration indicates that it would cost approximately \$2.3 billion to clean-up federal sources by incentives alone. The federal government has committed only \$5 million for incentives to date and is scheduled to adopt new regulations for diesel engines over the next several years.

School Children Still Exposed to Air Emissions. Diesel emissions from school buses are causing acute toxic exposures to air pollution, as well as longer term adverse health effects. The

exposures from school buses are especially harmful to children. Last year, the budget enacted ongoing funding to support the Carl Moyer Program which provides incentive funds to reduce diesel air pollution. School buses do not compete well for funding under the Carl Moyer Program, because buses typically run only a few hours a day and are not as cost effective to retrofit. It is estimated that the cost of retrofitting or replacing school buses is roughly \$350 million in one-time funds.

Goods Movement Growing Sources of Air Emissions. Air pollution related to goods movement at our ports is forecast to grow at double digit rates in the future as California's ports continue to grow in importance as the gateway of imported goods from Asia. In addition, NAFTA now allows for free commercial travel between California and Mexico. The truck fleet from Mexico is significantly older and dirtier than the U.S. fleet and will also result in a growing source of air emissions. The cost to clean up truck and port related emissions would amount to billions of dollars if incentives alone were used to address the problem.

Staff Recommendation. Staff recommends that the Subcommittee adopt trailer bill language (to be drafted by staff) that targets Carl Moyer funding for a limited-term on school bus retrofits and goods movement-related diesel emissions. The language would exempt school buses from the cost-effectiveness criteria under the Moyer program to allow them to qualify for cleanup funds for a limited time period.

4. Hydrogen Highway

April Finance Letter. The Governor has submitted an April Finance letter requesting an increase in the Air Resources Board's budget by \$12.2 million and in the budget of the Secretary for Environmental Protection by \$154,000 to support the implementation of the Hydrogen Highway Network Blueprint Plan. Approximately \$6.9 million comes from the Motor Vehicle Account and \$5.5 million comes from the Energy Resources Programs Account (funded by a surcharge on the sale of electricity).

Specifically, the funds will support \$9.5 million in incentive grants (\$4 million for vehicle subsidies and \$5.5 million for cost shares on 11 hydrogen fueling stations), \$1 million in contracts and \$1.4 million to support 15 positions to start the first phase of implementation of the Hydrogen Highway Network Blueprint Plan. The Plan eventually calls for 50 to 100 hydrogen fueling stations in California, along with support for the deployment of hydrogen vehicles and a biennial progress review.

Previous Subcommittee Direction. At the May 9 meeting of the Subcommittee, staff, the LAO and the administration were directed to work on developing a compromise proposal that furthers the development of hydrogen fuels in the budget year. The compromise proposal should address concerns raised in the analysis, focus on important first steps and include legislation guiding the implementation of the blueprint plan.

Staff Comments. Staff continues to be concerned about making significant investment in a hydrogen highway infrastructure without answers to some basic questions on the environmental impacts of this proposal. For example, staff finds that an analysis that compares the

environmental impacts of different options for creating hydrogen, as well as specific impacts on environmental justice communities, is important. Staff is also concerned that the state is not doing enough in the short term to focus on alternative transportation fuels that are available on the market now and can contribute to reducing air emissions in the short term.

Staff Recommendation. Staff recommends that the Subcommittee approve \$1.5 million (half from ERPA and half from MVA) to fund a portion of this proposal. Specifically staff recommends approving the following components of the proposal:

- \$154,000 (ERPA) for 1 position at the Office of the Secretary for Cal-EPA to coordinate research related to hydrogen.
- \$380,000 (ERPA) for 3 positions at the Air Resources Board to conduct research related to hydrogen, including environmental impacts of a hydrogen highway and specific impacts to low-income communities.
- \$1 million (\$220,000 ERPA, \$780,000 MVA) for contracts for continued research on environmental impacts, safety and other related issues related to the implementation of a hydrogen highway.

5. Improving Efficiency of Cal-EPA Boards

Background. When CAL-EPA was created in 1991, it was promised that there would be a subsequent set of changes to the agency that increased its accountability, reduced costs, and improved efficiency. This commitment was never fulfilled.

Earlier this year, the Governor announced his California Performance Review, which called for a comprehensive remake of state government for the 21st century. Part of that plan called for the overhaul of the boards and departments within Cal-EPA. The Governor subsequently withdrew that plan and has decided not to pursue it this year.

As part of the 2004 trailer bill to the budget, legislation was enacted directing the Secretary of Cal-EPA to consolidate selected administrative functions at all of the boards, departments, and offices within the agency. Functions eligible for consolidation include the procurement of basic office supplies, information technology, fee collection, and generic human resources functions that support state personnel. This consolidation was to result in various special fund savings.

Staff Comments. Staff finds that certain boards at Cal-EPA could be streamlined to improve efficiency and reduce state costs. For example, the size of the nine regional water boards has made it difficult to keep boards fully appointed. Right now there are 81 regional water board members statewide. Furthermore, the Waste Board has an even number of board members, which has made it difficult to resolve split decisions. These examples highlight board structures that could be improved and streamlined to improve the efficiency, but still preserve public access to the state's regulatory processes.

Staff Recommendation. Staff recommends that the Subcommittee adopt trailer bill language to do the following:

- Reduce the Waste Board from six to five members.
- Reduce the Regional Water Quality Management Boards from nine to five members.

3930 Department of Pesticide Regulation

1. Pesticides Risk Assessment Activities

Background. The Department of Pesticide Regulation (DPR) conducts risk assessments on pesticide ingredients to find out if they are being used in a way that is safe, both for users, and for the general population. The administration proposes providing approximately \$2.9 million for risk assessment activities at the department in the budget year.

The Office of Environmental Health Hazard Assessment (OEHHA) is the primary environmental health risk assessment branch of the state. Given some of the problems identified regarding the department's risk assessment of pesticide ingredients, OEHHA may be a more appropriate entity for risk assessment of pesticides. OEHHA does not have specific risk management responsibilities related to pesticides, which reduces the conflicts inherent at the department. Furthermore, it is likely that there will be synergies gained from centralizing the risk assessments related to pesticides with other toxic chemicals in the environment.

Previous Subcommittee Direction. At the April 4 meeting of the Subcommittee staff were directed to provide additional analysis regarding the pros and cons of shifting DPR's risk assessment functions to OEHHA.

Analysis of Potential Shift. Staff has had several meetings with stakeholders and the department regarding this issue since the April 4 meeting of the Subcommittee. Staff finds that there are many issues that would make moving DPR's risk assessment activities to OEHHA in the budget year difficult. The department has indicated that risk assessment is not limited to one division of staff at the department, but allocated to several divisions making it difficult to physically determine what positions would be transferred. Staff finds that there is a considerable history of decisions by the department that make it questionable whether past risk assessments by the department have been completely scientifically derived. Staff recognizes that risk assessment work by the department has improved considerably since the 1990s and that the department has taken several steps to improve the firewalls it has between risk assessment and risk management decisions. Nevertheless, it is likely that, so long as risk assessment and risk management of pesticide products reside in the same department, some persons will be skeptical of risk assessments produced by the department.

Alternate Solution. Staff finds that there are other ways to improve the independence and review of the risk assessment that do not require moving DPR's risk assessment activities out of the department. One option is to amend the statute so that a committee comprised of equal numbers of participants from DPR, OEHHA, and the Scientific Review Panel make the final decision on what exposure levels would be deemed scientifically acceptable. This option would preserve the scientific staff at the department and could alleviate criticism of undue influence from the risk management side of the department.

Staff Recommendation. Staff recommends that the Subcommittee adopt trailer bill language to enact the alternate solution presented above.

3940 State Water Resources Control Board

1. Water Rights Program

Governor's Budget. The budget proposes to provide \$231,000 from the Water Rights Fund to support 2.6 positions that will be filled with student assistants to update and maintain accurate records of ownership for the water rights program. The budget also proposes to redirect \$270,000 of federal funds to the water rights fund in an appropriate charge to the U.S. Bureau of Reclamation for the costs of administering the Bureau's water rights.

Previous Subcommittee Direction. At its April 25 meeting, the Subcommittee directed staff, the LAO, DOF, and the board to identify alternative funding sources for augmenting the board's water rights program in order to continue needed environmental work to implement the in-stream flows adopted by the fisheries agencies.

Board Response. The board has indicated that funding for the environmental work to implement the in-stream flows adopted by the fisheries agencies for the Napa River and other North Coast streams could be funded by the General Fund, the Water Rights fee, or the Public Resources Account of the Proposition 99 tobacco tax revenues.

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve the Governor's budget proposal for the Water Rights program; and
- Augment the water rights program by \$1.5 million General Fund to start environmental work to determine in-stream flows required for Napa River and other North Coast streams consistent with the budget trailer bill from 2004 (AB 2121).

2. Monitoring Activities

Governor's Budget. The SWAMP program is funded by approximately \$5.5 million in fees assessed on waste dischargers in the budget year. This includes approximately \$2 million to support 17 positions and \$3.5 million for contracts.

Approximately \$10 million is proposed from Proposition 50 bond funds to fund the GAMA program in the budget year. The board has indicated that it is currently working on implementing a groundwater monitoring plan that was established in statute. This plan includes completing a baseline hydro-geologic assessment to determine how groundwater flows. The board proposes that it will spend approximately \$50 million over five years to sample wells around the state and establish a baseline set of data on groundwater quality.

Previous Subcommittee Direction. At the April 25 meeting of the Subcommittee, the board was directed to provide additional information on the expenditure of Section 106 federal funds.

The Subcommittee also directed staff, the LAO, DOF, and the board to work on options for better coordinating the state's monitoring programs so that the state can effectively utilize data currently being collected.

Board Response. The Board has indicated that the \$10.1 million in Section 106 federal funds received by the board are allocated to the following activities:

- \$500,000 for the Storm Water NPDES program;
- \$4 million for the Wastewater NPDES program; and
- \$905,000 for the Total Maximum Daily Load (TMDL) Program.

The remaining federal funds are provided as a contract to U.S. EPA for wastewater, storm water, information technology, and TMDL programs.

Staff Comments. Staff finds that federal law directs that the Section 106 federal funds be used at least in part to support a robust monitoring program. These funds are currently not being used to support monitoring at the board. Furthermore, staff finds that the board's surface water monitoring programs (SWAMP) have suffered from budget reductions over the past several years. Currently, the SWAMP program is monitoring at only 50 sites statewide. This level of monitoring leaves significant data gaps, because many of the state's water bodies remain unmonitored.

Staff Recommendation. Staff recommends that the Subcommittee redirect \$4.5 million in federal funds currently supporting the NPDES program to support the SWAMP program. The board should backfill this reduction in the NPDES program with increase fees from the Waste Discharge Permit Fund.

3960 Department of Toxic Substances Control

1. BKK Class I Landfill

Background. The State recently took over operation and maintenance activities related to the BKK Class I (hazardous waste) landfill in West Covina, California when the BKK Corporation informed DTSC that it was on the verge of bankruptcy and would no longer be able to fund post closure obligations. The BKK Corporation is a subsidiary of the Washington Mutual Corporation. The DTSC acted quickly to assume operations of the landfill because of the direct health and safety risks to surrounding communities. In order to fund these activities in the current year, \$7 million General Fund has been approved, including funding for major deferred maintenance projects. The DTSC is currently pursuing potentially responsible parties that contributed hazardous waste to this site to seek funding for ongoing operations and maintenance costs associated with this site. However, the State, itself (mainly Caltrans), is a major responsible party that contributed hazardous waste to this site during its years of operation.

April Finance Letter. The letter proposes \$8.5 million General Fund to continue operations of the BKK landfill in the budget year. Approximately \$5.5 million will be used to fund a contractor for operating costs associated with operation of the landfill. Approximately \$3 million

will be for one-time costs for additional deferred maintenance projects. Thus far, no responsible parties have stepped forward to take over site operations. Therefore, the state has hired a contractor that will maintain the site at a cost to the state of approximately \$15,000 per day.

Negotiations are continuing with a group of potentially responsible parties regarding ongoing funding for the site. So far, the group has provided approximately \$500,000 for current year activities. The administration has included budget bill language that would require that any additional funds from the responsible parties received in the budget year be expended to maintain the site before expending monies from the General Fund. Therefore, a portion of the General Fund could be reverted if the state receives sufficient funds from the responsible parties.

Previous Subcommittee Direction. At the April 4 meeting of the Subcommittee, action was withheld on the state's maintenance of the BKK landfill until staff could review the more complete funding proposal that had been submitted for maintenance activities in the budget year. The Subcommittee also directed the department to submit plans for improving financial assurances related to the long-term management of hazardous landfills in order to avoid a BKK-type situation in the future.

Department Response. The department has provided staff with additional information on the proposal to fund BKK landfill operations and deferred maintenance. Staff finds that operation of this landfill is extremely costly. The department has not provided staff with any plans for improving financial assurances related to long-term management of hazardous landfills.

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve the budget proposal to fund BKK landfill operations, including the April Finance letter.
- Adopt budget bill language requiring notification of the Legislature when the department is reimbursed by the potential responsible parties.
- Adopt trailer bill language that requires the state emergency response costs to be counted towards the state's overall share of the total liability associated with the landfill.

2. Brownfield Cleanup

Governor's Budget. The administration proposes additional funding to oversee Brownfield remediation at both the Water Board and DTSC. The Governor proposes to provide \$1.6 million to support 15 new positions at the Water Board and \$1.7 million to support 15 new positions at DTSC. Approximately \$1 million is from the State Water Quality Fund, \$1 million from reimbursements, \$914,000 is proposed from federal funds, and \$200,000 from the Hazardous Waste Control Account. These funds will be used to oversee cleanup of Brownfield properties, including closed military bases.

April Finance Letter. The letter proposes increasing expenditure authority for federal funds by \$500,000 to provide the cities of Los Angeles, Sacramento, and San Francisco with funding for program development and outreach for Brownfield cleanup. The DTSC has applied as a coalition with the cities of Los Angeles, Sacramento, and San Francisco for \$4 million in federal funding from U.S. EPA's Brownfields Revolving Loan Fund and Cleanup Grant program. The federal

funds requested by this letter would be made available only if U.S. EPA provides the state and its municipal partners with a grant. The U.S. EPA is expected to announce awards later in the spring of 2005 and actual awards will be made in September or October.

Previous Subcommittee Direction. At the April 4 meeting of the Subcommittee, budget proposals to augment staffing to oversee Brownfield cleanup activities at the department and the State Water Resources Control Board were approved. The Subcommittee also directed staff, LAO, and the administration to work on funding options for Brownfield cleanup in the budget year.

Brownfield Cleanup Needed. The Governor's Environmental Action Plan stated that a top priority for his administration was "to rapidly complete the cleanup of brownfield sites, especially the thousands of locations with leaking underground petroleum fuel tanks, enabling these sites to be developed for commercial uses." Legislation was enacted in 2004 to provide approximately \$10 million annually for brownfield cleanup of sites contaminated by petroleum. However, it is estimated that the need for funding for brownfields cleanup could be up to \$200 million per year and that funding needs to be available for contaminant cleanup beyond petroleum, since some sites are contaminated with other pollutants. There continues to be a need for additional funding to assist local governments and property owners to clean up abandoned sites and to assist in returning those sites to productive use.

Staff Recommendation. Staff recommends that the Subcommittee adopt trailer bill language to increase and expand funding for brownfields cleanup under the Underground Tank Cleanup law and the environmental fee statutes presently used to fund DTSC programs.

0540 Secretary for Resources

1. River Parkways Program

Governor's Budget. The administration proposes to appropriate \$38.35 million in bond funds (\$30.5 million Proposition 50, \$7.85 million Proposition 40) for River Parkway grants for 2005-06. The Proposition 40 grant funds are proposed to be allocated as opportunity grants by the Secretary, which means that these grants will not be allocated through a competitive process. The remainder of Proposition 50 funds are planned to be allocated through a competitive solicitation process.

Previous Subcommittee Meeting. At the March 14 meeting of the Subcommittee this issue was left open pending receipt and review of the draft guidelines for the River Parkway grant program and a plan for allocating the funds through a transparent allocation process.

Agency Response. The Resources Secretary has submitted draft guidelines for the River Parkways program. Staff finds that the guidelines are consistent with the legislation enacted in 2004 to guide the implementation of the program. Furthermore, the Resources Secretary has provided an outline for allocating opportunity grants through a transparent process.

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve the Proposition 50 bond funds for the budget year only; and
- Defer approval of the Proposition 40 bond funds so that staff can further evaluate how these funds are proposed to be allocated.

2. Sierra Nevada Cascade Grant Program

Governor's Budget. The administration proposes \$11.65 million Proposition 50 bond funds for Sierra Nevada Cascade grants for 2005-06. The grants are proposed for competitive solicitation.

Previous Subcommittee Meeting. At the March 14 meeting of the Subcommittee, this issue was left open pending receipt and review of the draft guidelines for the River Parkway grant program and a plan for allocating the funds through a transparent allocation process. The Resources Secretary was also asked to provide additional information on how it would coordinate with the new Sierra Nevada Conservancy in the allocation of these grants.

Agency Response. The Secretary has indicated that Resources will not be able to submit draft guidelines prior to the conclusion of budget hearings, but will submit the draft guidelines for this program to the Legislature upon completion of the guidelines later this summer. The Secretary has indicated that Resources plans on consulting with the new Sierra Nevada Conservancy prior to awarding grants to ensure that grants are consistent with needs identified by the Conservancy.

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve the allocation of Proposition 50 bond funds for the budget year only, and
- Approve the following LAO budget bill language to evaluate the Sierra Nevada Conservancy's role in allocating grant funds for 2006-07.

Item 0540-001-6031

Provisions:

1. The Secretary for Resources, in consultation with the Sierra Nevada Conservancy, shall submit a plan for the coordination of grant programs in the Sierra Nevada region to the Joint Legislative Budget Committee and the fiscal committees of both houses of the Legislature by December 1, 2005.

3. California Environmental Quality Act Equivalent Programs

Background. Recent legislation (SB 1393, Kuehl) required that the Secretary for Resources develop a protocol to evaluate California Environmental Quality Act (CEQA) equivalent certified regulatory programs. These programs are designated by the Secretary for Resources as functionally equivalent to CEQA and are not required to complete the required Environmental Impact Reports under CEQA.

Previous Subcommittee Direction. At the March 14 meeting of the Subcommittee the staff, LAO, and the Resources Secretary were directed to develop trailer bill language that would

require the Resources Secretary to complete evaluation of three certified regulatory programs annually to ensure that they are equivalent with the California Environmental Quality Act.

Agency Response. The administration has reviewed the current draft trailer bill language and believes the language is unnecessary since the Secretary is presently reviewing all of the certified regulatory programs as required by current law.

Staff Recommendation. Staff recommends that the Subcommittee adopt the trailer bill language as currently drafted and continue to work with the administration to find a compromise on the review process.

4. Environmental Review of Liquefied Natural Gas and Marine Oil Terminal Applications

Governor's Budget. The administration is proposing \$114,000 from reimbursements to extend one limited-term environmental scientist to support the increased workload of the SLC's environmental review activities related to LNG and MOT applications. The SLC has three positions (including the requested limited-term position) providing environmental review of applications received by SLC. The SLC's environmental review activities are reimbursed by the companies developing proposals for LNG facilities and new MOTs.

The CCC has approximately 4 positions supported by the General Fund to review all energy-related applications. The budget does not provide any augmentation to its staffing resources to address the increased workload associated with the 36 MOT leases and the LNG proposals.

Previous Subcommittee Direction. At the March 14 meeting of the Subcommittee the Resources Secretary was directed to provide workload information on the current and projected work required by the state agencies under the Resources Agency in reviewing LNG applications, including information on current staffing levels.

Agency Response. The Resources Secretary has not provided any additional information on the staffing resources related to the review of LNG plants. The Chairman of the Energy Commission has indicated in correspondence with the committee that a joint workshop will be held in June conducted by the Energy Commission, Resources Secretary, and the Public Utilities Commission to explore ways to maximize the potential economic benefits to consumers of any natural gas imported to California in the form of LNG. The joint workshop does not plan on addressing environmental concerns related to these potential offshore facilities.

Staff Recommendation. Staff recommends that the Subcommittee request that the administration include discussions of the environmental impacts of LNG in its joint workshop to be held in June.

5. Invasive Species

Background. The state's invasive species activities are conducted by several different agencies. Assembly Bill 2631 (Wolk) attempted to coordinate the state's many invasive species control and eradication efforts in 2004, but this bill was vetoed by the Governor. The Governor's veto message directed the Secretary of Resources, along with the Secretary for Food and Agriculture, to develop recommendations for enhancing the coordination and effectiveness of our invasive species eradication and control programs by December 31, 2004. These recommendations have not been released.

Previous Subcommittee Direction. At the March 14 meeting of the Subcommittee the Resources Secretary was directed to provide information on recommendations made related to coordinating the state's invasive species activities.

May Revision. The administration proposes trailer bill language to eliminate the Interagency Aquatic Invasive Species Council. The administration indicates that this council was never formed and that its mission is already being carried out by the Department of Fish and Game.

Agency Response. The Office of the Resources Secretary has indicated that information on the recommendations related to the state's invasive species activities will not be provided prior to the conclusion of budget hearings. The administration indicates that eliminating this council will improve the efficiency of government by consolidating the number of boards, commissions and other small entities.

Staff Comments. Staff is concerned about taking an action to eliminate this council until it has seen the administration's plan for coordinating the state's invasive species activities. The administration has indicated that recommendations have been submitted to the Governor's office for review, but these recommendations have not been released. Staff finds that adopting trailer bill language to eliminate this council is premature, as the information is still forthcoming.

Staff Recommendation. Staff recommends rejecting the May Revision proposal to eliminate the Interagency Aquatic Invasive Species Council until recommendations related to coordinating the state's activities related to invasive species are released.

3360 California Energy Commission

1. PIER Program

Background. The Public Interest Energy Research Development and Demonstration (PIER) program provides grant funds to public and private entities for research, development, and demonstration of electricity-related technologies. Recent legislation directed CEC to establish an independent review panel to evaluate the PIER program. The PIER program is scheduled to sunset in 2011.

Previous Subcommittee Direction. At the April 18 meeting of the Subcommittee, staff was directed to develop trailer bill language that requires the commission to develop a long-term workload and staffing plan for the PIER program.

Commission Response. The Commission has reviewed the draft trailer bill language and believes that it can comply with the required report setting forth a long-term research priority, program management, and staffing plan.

Staff Comments. Energy-related research has increasingly become interlinked with air quality, environmental protection and climate change activities, which are the core responsibilities of Cal-EPA. Nevertheless, the PIER program has been managed since its inception at the CEC, which does not have the same environmental protection mandates as Cal-EPA. Staff finds that a portion of the PIER research funds should be dedicated to energy-related technologies and products that reduce the negative environmental impacts of the energy industry.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve trailer bill language to require that the Commission develop a long-term workload and staffing program for the PIER program consistent with language adopted by the Assembly on May 11.
- Transfer \$31.25 million in grant funds from the PIER program to the Air Resources Board for the management of a grant program to fund energy-related research on technologies that reduce the environmental impact of the state's energy infrastructure. Trailer bill language (to be drafted by staff) will be needed to make this transfer possible.

2. Frontier Line Transmission Project

May Revision. The Governor has proposed \$2.5 million from the Energy Resources Program Account for support of the Frontier Line Transmission Project. In April 2005, the Governors of California, Nevada, Utah, and Wyoming signed an agreement to develop a transmission line originating in Wyoming with terminal connections in the other three states. This project is currently in the pre-feasibility stage and a Coordinating Committee has been formed to do conceptual-level work to define the transmission project, study the route, and create a process for selecting a potential developer.

Approximately \$2.25 million is proposed for a one-time contract to ensure adequate support for the proposed transmission project's Coordinating Committee. The remaining funding will support 2 two-year limited term positions at the Energy Commission to manage and direct the contract. The estimated cost of the Coordinating Committee's work is approximately \$12 million. It is proposed that the federal government will provide about \$6 million and the remainder will be provided by the other states.

Environmental Concerns. Concerns have been raised regarding the potential use of the Frontier Line to deliver electricity from coal-burning power plants to California. Coal-burning power plants have been found to have significant negative impacts on the environment. They are a major contributor to carbon dioxide in the environment, which is a significant source of global

warming emissions. Coal-burning power plants also are a significant cause of mercury pollution in our environment.

Consistency with Energy Action Plan. The Frontier Line could provide California with access to up to 12,000 Megawatts of new generation capacity, including the ability to deliver energy from renewable sources. The administration estimates that this transmission line could save California customers \$325 million annually by tapping into lower cost energy resources. While this could potentially be an important future source of electricity for meeting electricity demands in the state, it is not currently part of the state's Energy Action Plan that outlines a vision for meeting the state's future energy needs. The state's current plan calls for cost-effective investments in energy conservation, development of additional renewable energy projects, and the development of transmission interconnections within California. The current plan does not call for the construction of a major new transmission that would access additional coal-generated electricity. Based on the energy planning done by the state to date it is not clear how this project fits into the state's overall plan for meeting its electricity needs.

Staff Recommendation. Staff recommends that the Subcommittee reject this proposal.

3480 Department of Conservation

1. Williamson Act

Background. The Williamson Act allows cities and counties to enter into contracts with landowners to restrict certain property to open space and agricultural uses. In return for these restrictions, the property owners pay reduced property taxes. The contracts entered into between local governments and property owners are ten-year contracts, which are typically renewed each year for an additional year, such that the contract remains at a constant 10 years. Landowners that do not renew their contracts face gradual increases in their property tax over a ten-year period to the level that unrestricted land is taxed. Landowners that cancel their Williamson Act contracts must pay a penalty of 12.5 percent of the unrestricted fair market value of the land.

Previous Subcommittee Direction. At the April 11 meeting of the Subcommittee, staff, the LAO, and the administration were directed to develop trailer bill language to increase the penalties assessed for canceling a Williamson Act contract. The administration was also directed to provide additional information and rationale for the existing penalty.

Staff Comments. After meeting with the department, the staff finds that increasing the penalties on the cancellation of Williamson Act may not be the best way to improve the effectiveness of keeping land in Williamson Act contracts. Staff finds that, for the last several years, cancellation penalties have been significantly more than what is estimated in the Governor's budget. Current law limits the amount of the penalties that the department keeps to fund its land management programs. Staff finds that an increase in staff at the department could improve the effectiveness of the Williamson Act by increasing oversight of actions by local governments. Staff also finds that the department's enforcement over properties that are in material breach of their Williamson Act contract could be made more efficient. Specifically, current law allows property owners that

are in material breach of state law to appeal the assessor's valuation and the department's appraisal for purposes of penalty valuation.

Staff Recommendation. Staff recommends that the Subcommittee:

- Augment the department's Williamson Act enforcement unit by \$350,000 from the Soil Conservation Fund (Williamson Act cancellation penalty money) and establish three new positions.

3540 Department of Forestry and Fire Protection

1. Augmentation to Off-Season Fire Protection for Southern California

Governor's Budget. The Governor's budget proposes \$9 million in ongoing General Fund monies to fund fully-staffed fire protection in five Southern California counties. Approximately \$5.7 million is proposed to support 49 new positions to fully staff the 36 fire stations in Riverside, San Bernardino, and San Diego counties year-round. About \$3.3 million will be provided to Los Angeles and Orange counties to reimburse these counties for providing fully-staffed fire protection service year-round to SRA lands within these counties. This level of funding will support three firefighters per engine, year-round, in the five Southern California counties identified.

Previous Subcommittee Direction. At the April 18 meeting of the Subcommittee the department was directed to provide additional information that justifies the augmentation to off-season fire protection resources in the five Southern California counties. The Subcommittee also requested additional information on how contract counties will use increased funds to provide additional services to benefit the state and how the Amador agreements will be impacted by this proposal. Further analysis was also requested regarding how fuel reduction activities would be enhanced by augmenting off-season fire protection resources.

Department Response. The department has not been able to provide specific information that justifies the augmentation to off-season fire protection resources. For example, the department has not provided data that justifies the increase in staffing due to increased incidences of fires in the off-season. Nevertheless, the department has indicated that it will increase its fire prevention activities with the increase in staffing resources. The department has provided general work plans that include increased fire prevention, public education, and increased fuel reduction.

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve this request; and
- Adopt supplemental report language that requires the department to report on the following (1) performance measures related to increased prevention/inspection work; (2) impacts to Amador Agreements; and (3) coordination with contract counties on their increased level of inspection and prevention activities.

2. Legislative Oversight of CDF's Budget

Governor's Budget. Currently, CDF is generally exempt from the Section 28.00 process, which reduces the Legislature's oversight over how CDF is expending its resources.

In addition, CDF does not schedule budgetary expenditures in the budget bill in a manner that is similar to the way in which expenditures are presented in the Governor's budget. This lack of scheduling enables the department to transfer funds among program areas without legislative notification.

Previous Subcommittee Direction. At the April 18 meeting of the Subcommittee, staff, the LAO, DOF, and the department were directed to work on budget bill amendments and reporting requirements that would allow the Legislature to receive notification of unanticipated federal funds and provide a schedule of appropriations by program area.

Department Response. The department indicated that it did not have any issues with the LAO's recommendation to schedule budget bill expenditures by program area, similar to how the budget is presented in January. The department has not been able to provide staff with information to justify its exemption from the Section 28.00 budget process. The Section 28.00 process allows for legislative notification of the receipt of unanticipated federal funds.

Staff Recommendation. Staff recommends that the Subcommittee:

- Amend budget bill language to delete the provision exempting the department from the Section 28.00 process; and
- Revise budget bill language so that the department's expenditures are scheduled so as to be similar to the way they are presented in the Governor's budget.

3. Funding for Forest Resource Management, Assessment and Enhancement Programs

Governor's Budget. The Governor's budget estimates that \$7 million in revenue will be generated from the sale of forest products harvested on state forest land in the budget year. The budget proposes to expend \$4.6 million of these revenues on forest resources enhancement programs. This proposal assumes some resolution of the current court-ordered moratorium on timber harvesting in the Jackson State forest.

Previous Subcommittee Direction. At the April 18 meeting of the Subcommittee the budget for forest resource assessment and enhancement programs was left open pending receipt of the department's draft EIR for timber harvesting on Jackson State forest. Staff, the LAO, DOF, and the department were also directed to work on options for funding forest resource assessment and enhancement activities in the budget year if legal issues related to timber harvesting on Jackson State forest were not resolved by the EIR.

May Revision. The Governor proposes to provide \$3 million from the Renewable Resource Investment Fund to fund forest management, assessment and enhancement programs in the budget year.

Since the Subcommittee meeting the department has indicated that its draft EIR to harvest timber on Jackson State forest is still under review internally and that the earliest possible date for board approval of the EIR and a new management plan is July 2005. The department now estimates that the earliest possible date for timber harvesting to resume at Jackson State Forest is May 2006. Therefore, it is unlikely that a significant portion of the \$7 million estimated from the sale of forest products harvested on state forest land would be achieved.

The administration proposes to maintain the same level of expenditures for forest resource management, assessment, and enhancement programs as proposed in the January budget (\$4.6 million). The level of expenditures proposed for forest resource management, assessment and enhancement programs represents a minimum level of expenditures for these programs. These programs were typically supported at about \$13 million prior to the court-ordered moratorium on timber harvesting at Jackson State forest.

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve the Governor's budget for forest resource management, assessment and enhancement programs;
- Approve the proposed May Revision amendment to the budget for these programs; and
- Redirect \$6 million General Fund to backfill the remaining forest resource management, assessment, and enhancement programs from the department's General Fund central administration budget.

4. Funding for More Fire Engines

May Revision. The Governor proposes \$5 million General Fund to purchase new fire engines equipped for responding to structure fires in the wildland-urban interface areas. This proposal is in addition to the ongoing \$10.8 million General Fund augmentation for fire engine replacement approved by the Subcommittee at the May 9 hearing.

Equipment Replacement Schedule. Staff and the administration have done a significant amount of work developing an equipment replacement schedule that identifies the backlog of equipment that needs to be replaced. The request for engines contained in this proposal is new and not currently part of the equipment replacement schedule. Information has not been provided to justify this request.

Staff Recommendation. Staff recommends that the Subcommittee reject this proposal.

5. Restoration of Unallocated Reduction

May Revision. The Governor proposes \$6.7 million General Fund to restore an unallocated reduction that was included in the January budget. The administration indicates that this cut is being restored to provide the maximum available fire protection against wildland fires.

Staff Comments. On April 25 the Governor, in a press conference, pledged that he would restore the unallocated reduction proposed in the budget to the Department of Forestry and Fire Protection. Unallocated General Fund reductions have been proposed for all state departments across the board. This is the only unallocated reduction proposed for restoration in the Resources Agency. It is not clear to staff why this department's reduction is being singled out for restoration when other departments have taken significantly larger reductions over the last few years and have not received the number of augmentations this department is receiving in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee reject this proposal.

3640 Wildlife Conservation Board

1. Bond Reappropriation

May Revision. The Governor proposes to reappropriate \$18.6 million in Proposition 40 bond funds that were appropriated in 2002, but have not been expended. Approximately \$4.8 million was appropriated by AB 52 (Wiggins) to support the Oak Woodlands Conservation Program, and approximately \$3.2 million is remaining and proposed for reappropriation. Approximately \$19.2 million was appropriated by SB 984 (Costa) in 2002 to support the Rangeland, Grazing Land, and Grassland Protection Program and approximately \$15.4 million is remaining and proposed for reappropriation.

Staff Recommendation. Staff recommends approving the proposed reappropriation of bond funds.

3720 California Coastal Commission

1. Improving Coastal Access and Development Mitigation

Background. The Coastal Commission has employed the use of “offers to dedicate” (OTD) as a mitigation tool in its permitting process. Under OTDs, the permittee is offering to transfer an interest in a portion of his/her land at some point *in the future* (when an entity is found to accept the offer) in return for a permit to develop his/her property *now*.

The LAO has made the following recommendations to improve the use of OTDs as effective mitigation tools and to improve legislative oversight over the use of OTDs by the commission. The recommendations include:

- Reporting on the universe of OTDs.
- Developing a plan for accepting and opening OTDs.
- Designating a State Agency to accept non-access OTDs.

Previous Subcommittee Direction. At its April 11 meeting, the Subcommittee directed staff, the LAO, and the administration to work on trailer bill language to implement the LAO's recommendations and to develop options for funding the LAO's recommendations.

Department Response. The commission has indicated that it would not require additional staffing resources to report on the universe of OTDs and that this information could be gathered by the end of the calendar year. The commission also indicated that a plan for accepting and opening pending OTDs could be developed within the same time frame. According to the Commission, they need approximately 5 new positions to completely update their tracking database and files, prioritize OTDs for acceptance, get OTDs accepted more quickly, and increase monitoring of already accepted OTDs.

Coastal Commission Permit Fees. Staff finds that the commission's current permit fees have not been increased since 1991 and that its fees are considerably lower than comparable fees at local governments. The commission has the authority to increase its fees without action by the Legislature. However, staff finds that the commission would prefer intent language that directs the commission to increase its fees. If the commission raised its fees to cover approximately 50 percent of its current permitting program it would raise approximately \$2.3 million. This issue was discussed at length during the 2004 budget discussions. Current law requires that the commission fees be transferred to the State Coastal Conservancy for coastal access projects.

Staff Recommendation. Staff recommends that the Subcommittee:

- Adopt trailer bill language stating legislative intent that the commission raise its fees to generate approximately \$2.3 million in the budget year.
- Adopt trailer bill language that allocates \$1 million of the permit fees annually to the State Coastal Conservancy for coastal access projects, including accepting and opening OTDs. The remainder of the fee revenues (\$1.3 million) should be deposited in the General Fund.
- Augment the budget by \$600,000 General Fund to establish 5 new positions (2 permanent and 3 three-year limited term) to address the backlog of work related to tracking, accepting, and opening OTDs.
- Adopt the following supplemental report language:
 1. On or before January 10, 2006, the California Coastal Commission, with assistance from the State Coastal Conservancy, shall report on all offers to dedicate described in Public Resources Code Section 31402.1 that have not yet been accepted by a third party, including those offers to dedicate where the acceptance status is currently unknown. The report shall include the type of offer to dedicate (public accessway, conservation easement, or open-space easement), status, location, expiration date, names of potential entities that could accept the offer and assume long-term management thereof, and the date on which the commission plans to begin working on getting the offer to dedicate accepted.
- Adopt supplemental report language that requires the commission to report annually on its progress in addressing the backlog of OTDs (to be drafted by staff).
- Adopt trailer bill language that designates the State Coastal Conservancy as the default agency to accept non-access OTDs set to expire and to exempt this process from the

Department of General Service process (similar to the current process for accepting access OTDs).

2. Environmental Review of Liquefied Natural Gas and Marine Oil Terminal Applications

Governor's Budget. The CCC has approximately 4 positions supported by the General Fund to review all energy-related applications. The budget does not provide any augmentation to its staffing resources to address the increased workload associated with the 36 MOT leases and the LNG proposals.

Previous Subcommittee Direction. At the March 14 meeting of the Subcommittee the Resources Secretary was directed to provide workload information on the current and projected work required by the state agencies under the Resources Agency in reviewing LNG applications, including information on current staffing levels.

Agency Response. The Resources Secretary has not provided additional information, as requested, on staffing needs at the commission to adequately review LNG facility applications and the MOT leases.

Staff Recommendation. Staff recommends that the Subcommittee:

- Augment the budget by \$350,000 General Fund to establish 3 new positions to augment the energy unit in the Commission that reviews LNG proposals and the MOT leases.

3790 Department of Parks and Recreation

1. Hearst Acquisition Staffing

Governor's Budget. The budget includes \$1.3 million from the General Fund and 7 new positions to support the initial phase of management and operation of the state-owned properties, as well as terms and conditions of the conservation easement related to San Simeon Point, Ragged Point, and Pico Cove.

Previous Subcommittee Direction. At the April 18 meeting of the Subcommittee action was withheld on the staffing for the Hearst acquisition pending receipt of additional information from the department regarding other recent park acquisitions and the staffing needs at other parks for start-up operations.

Staff Comments. Staff finds that the state has purchased approximately 44,000 acres of new parkland since 2002-03. Few of the new parklands have been allocated dedicated state staff due to budget conditions. The department has indicated that the Hearst parkland was identified for additional funding because of the large number of people expected to visit the property in the budget year.

Staff finds that public access was permitted on the property prior to the state acquiring this property. The department has expressed the need to address the current uncontrolled public access to this property. Given that many state park properties currently have no public access it seems like it may be more appropriate to allocate some staff to facilitating public access to other state park properties.

Staff Recommendation. Staff recommends that the Subcommittee redirect \$500,000 and 3 positions to provide access to other park properties in the state park system that currently have no public access.

2. Empire Mine Pollution Mitigation Study

April Finance Letter. The letter proposes \$500,000 from the General Fund to support consulting contracts to study the presence of contaminants at the Empire Mine State Historic Park. The park is the site of major mining activities that operated for over 100 years. It is known that there are various contaminants that cause potential health risks present at the park, including asbestos, radon, and various metals. The studies funded include a human health risk assessment and a storm water pollution prevention plan.

The department has indicated that a notice of violation and intent to file suit under the Federal Water Pollution Control Act was received by the department in the fall of 2004 related to water and soil contamination at the Empire Mine State Historic Park. Receipt of this notice, as well as industrial storm water permit requirements communicated by the State Water Resources Control Board, have necessitated this request.

Previous Subcommittee Direction. At its May 9 meeting, the Subcommittee directed staff, the LAO, and the administration to evaluate the opportunity costs of using SMARA funds for planning and environmental assessment of the Empire Mine State Park.

Department Response. The Department of Conservation has indicated that a sufficient balance exists in the SMARA account if the state continues to receive sufficient royalties from mining on federal lands. Current law allocates the first \$2 million from the mining royalties to the SMARA fund when revenues exceed \$20 million. If revenues are below \$20 million the account only receives \$1.1 million.

Staff Comments. Staff finds that royalties from mining on federal lands are appropriately spent on activities related to mining and the impacts of mining on the environment. Staff does not find any justification for the current trigger that limits the allocation of mining revenues to the SMARA fund. Staff finds that SMARA funds are an appropriate source of funding for the environmental work related to the Empire Mine.

Staff Recommendation. Staff recommends that the Subcommittee:

- Adopt the LAO recommendation and use SMARA funds on a one-time basis to fund the environmental work related to the Empire Mine.

- Adopt trailer bill language to amend the statute to annually deposit the first \$2 million in federal mining royalties in the SMARA fund regardless of total revenues received by the state.

3. Deferred Maintenance

Background. The Department of Parks and Recreation currently has approximately \$873 million in deferred maintenance. The state park system is an important piece of state's infrastructure that has been chronically under-funded for routine maintenance activities.

Staff Recommendation. Staff recommends that the Subcommittee:

- Add \$3 million in General Fund to the department's budget for deferred maintenance activities statewide.

3810 Santa Monica Mountains Conservancy

Background. In the 2004 budget negotiations, the SMMC was required to provide information to DOF and the Legislature that would increase oversight and accountability of bond funds expended by the conservancy. The DOF has indicated that SMMC has met all of the requirements included in the budget bill language included in the 2004 budget. However, budget bill language has not been amended to reflect these changes.

Previous Subcommittee Direction. At the April 11 meeting of the Subcommittee the budget proposals for SMMC were approved and staff, DOF, the LAO, and the Conservancy were directed to amend budget bill language to reflect the settlement of issues with DOF.

Staff Recommendation. Staff recommends that the Subcommittee adopt the following amendments to the budget bill language for SMMC:

3810-301-0941—For capital outlay, Santa Monica
Mountains Conservancy, payable from the Santa
Monica Mountains Conservancy Fund13,000
Schedule:
(1) ~~50.20.002~~ 50.20.001-Capital Outlay and Local Assistance13,000

Provisions:

1. The Santa Monica Mountains Conservancy may encumber these funds for either capital outlay or local assistance grants through June 30, 2008. The conservancy shall not encumber these funds for any grant not previously approved by the Office of the Attorney General.
2. The Santa Monica Mountains Conservancy shall issue grants from this appropriation only in accordance with the General Obligation Bond Law and the specific provisions of the bond funds from which appropriations have been made, and according to advice it has received from the Office of the Attorney General, and, if appropriate from the Office of the State Treasurer, respecting the permissible use of bond funds available to the conservancy.

3. Any time that the Office of the Attorney General concludes that any use of bond funds has not been consistent with the advice provided by the Attorney General ~~opinion standard~~, the Santa Monica Mountains Conservancy shall follow the instructions of the Attorney General with respect to recovery, refund, or other settlement.

4. ~~Funds appropriated by this item shall be available upon a determination by the Director of Finance that the Santa Monica Mountains Conservancy and the Mountains Recreation and Conservation Authority have satisfactorily resolved the findings identified in the "Final Management Letter—Audit of Proposition 12, 13, and 40 Bond Funds," prepared by the Office of State Audits and Evaluations. Department of Finance, dated May 4, 2004.~~

The Santa Monica Mountains Conservancy shall submit a report to the Director of Finance and the Joint Legislative Budget Committee, no later than October 1, 2005, on the Conservancy's procedures and progress towards achieving compliance ~~with any outstanding or unverified resolution~~ with audit findings identified in "Final Management Letter—Audit of Proposition 12, 40, and 50 Bond Funds," prepared by the Office of State Audits and Evaluations. Department of Finance, dated March 1, 2005. ~~The report shall include, but not be limited to, the Conservancy's compliance procedures for adherence to state travel guidelines for state funded grant recipients, the prohibition on advancing grant funds, grant project quarterly status reports, and ensuring costs are allowable pursuant to Office of Management and Budget Circular A 87.~~

3810-301-6031—For capital outlay, Santa Monica
Mountains Conservancy, payable from the Water Security,
Clean Drinking Water, Coastal and Beach Protection
Fund of 20029,500,000
Schedule:
(1) 50.20.001 ~~Capital Outlay Acquisitions~~2,000,000
(2) ~~50.20.002 Capital Outlay and Local Assistance~~9,500,000

Provisions:

1. The Santa Monica Mountains Conservancy may encumber these funds for either capital outlay or local assistance grants through June 30, 2008. The conservancy shall not encumber these funds for any grant not previously approved by the Office of the Attorney General.

2. The Santa Monica Mountains Conservancy shall issue grants from this appropriation only in accordance with the General Obligation Bond Law and the specific provisions of the bond funds from which appropriations have been made, and according to advice it has received from the Office of the Attorney General, and, if appropriate, from the Office of the State Treasurer, respecting the permissible use of bond funds available to the conservancy.

3. Any time that the Office of the Attorney General concludes that any use of bond funds has not been consistent with the advice provided by the Attorney General ~~opinion standard~~, the Santa Monica Mountains Conservancy shall follow the instructions of the Attorney General with respect to recovery, refund, or other settlement.

4. ~~Funds appropriated by this item shall be available upon a determination by the Director of Finance that the Santa Monica Mountains Conservancy and the Mountains Recreation and Conservation Authority have satisfactorily resolved the findings identified in the "Final Management Letter—Audit of Proposition 12, 13, and 40 Bond Funds," prepared by the Office of State Audits and Evaluations. Department of Finance, dated May 4, 2004.~~

The Santa Monica Mountains Conservancy shall submit a report to the Director of Finance and the Joint Legislative Budget Committee, no later than October 1, 2005, on the Conservancy's procedures and progress towards achieving compliance ~~with any outstanding or unverified resolution~~ with audit findings identified in "Final Management Letter—Audit of Proposition 12,

40, and 50 Bond Funds,” prepared by the Office of State Audits and Evaluations. Department of Finance, dated March 1, 2005. ~~The report shall include, but not be limited to, the Conservancy's compliance procedures for adherence to state travel guidelines for state funded grant recipients, the prohibition on advancing grant funds, grant project quarterly status reports, and ensuring costs are allowable pursuant to Office of Management and Budget Circular A-87.~~

Staff also recommends that the Subcommittee add the following items to reappropriate bond funds that will not be expended or encumbered before the end of the current year:

3810-490—Reappropriation, Santa Monica Mountains Conservancy

The balance of the appropriation provided in the following citation are reappropriated for the purposes of liquidation and, subject to the limitations, unless otherwise specified, provided for in this appropriation, shall be available for liquidation until June 2008.

0940—Santa Monica Conservancy Fund.

(1) Item 3810-301-0941, Budget Act of 2000 (Ch. 52, Stats. 2000)

20.10.140 – Capital Outlay and Grants

3810-XXX—Reappropriation, Santa Monica Mountains Conservancy

The balance of the appropriation provided in the following citation are reappropriated for the purposes of liquidation and, subject to the limitations, unless otherwise specified, provided for in this appropriation, shall be available for expenditure for capital outlay or local assistance through fiscal year 2009.

0005—2000 Park Bond: Santa Monica Mountains & Rim of the Valley Trail Corridor Projects

(1) Item 3810-301-0005, Budget Act of 2000 (Ch. 52, Stats. 2000)

20.10.140—Capital Outlay and Grants

(2) Item 3810-301-0005, Budget Act of 2001 (Ch. 106, Stats. 2001)

20.10.140—Capital Outlay and Grants

(3) Item 3810-301-0005, Budget Act of 2002 (Ch. 379, Stats. 2002)

20.10.140—Capital Outlay and Grants

3855 Sierra Nevada Conservancy

1. Sierra Nevada Conservancy Start Up

Governor’s Budget. The administration has proposed \$3.6 million for start-up activities for the Sierra Nevada Conservancy (\$3.4 million ELPF and \$200,000 Reimbursements). The administration indicates that the primary activities proposed for the conservancy in 2005-06 are program guideline development and the review of grant projects to be funded by the Secretary of Resources.

Approximately \$2.6 million is proposed for operating expenses and equipment, including \$960,000 for program guideline development and \$629,000 for communications and data processing. The guideline development funding will be used to employ consultants to provide expert advice regarding existing resource management information, as well as to fund an extensive public workshop process for gaining additional information from each of the six sub-regions. The communications and data processing funding will be used for the development of a website, development of geographic information systems (GIS), and conferencing equipment.

Approximately \$948,000 is proposed for staff costs associated with 20.5 personnel years.

The board of directors of the Sierra Nevada Conservancy is scheduled to meet for the first time in April. Very little has been done to start up the conservancy in the current year aside from naming the board members. The administration has not provided information about how it is funding start up activities in the current year.

Previous Subcommittee Direction. At the March 14 meeting of the Subcommittee action was withheld on the Sierra Nevada Conservancy's start-up budget pending additional information on the following:

- Specific cost allocations for tasks related to guideline development.
- Information on how the conservancy and the grant program at the Secretary's office will be coordinated, including specific tasks required by each entity.

Staff Comments. Staff finds that the start-up costs for this conservancy are much higher than other conservancies and significantly higher than originally estimated when the legislation creating the conservancy was being considered in the Legislature. The Senate Appropriations Committee analysis from 2004 estimated that start-up costs for the conservancy would be about \$1.7 million. The start-up costs proposed by the budget are nearly twice what were estimated. Staff understands that the conservancy is unique in that it covers a large geographic area. However, it is not clear why nearly \$1 million is needed to fund contracts for guideline development. The majority of these funds will be used to hold various workshops and identify needs around the conservancy. Furthermore, it is not clear that the 13.5 positions proposed for funding in the budget year would be filled in time given that the administration is still in search of an executive director for the conservancy.

Staff Recommendation. Staff recommends that the Subcommittee:

- Reduce the proposed budget for the Sierra Conservancy by \$400,000 to account for delays in hiring new staff and make a marginal reduction in the department's large budget for program development.
- Adopt the following budget bill language:
Item 3855-001-0140.
Provisions:
 1. Of the amount appropriated in this item, \$567,000 for external consulting for program and guideline development and \$586,000 for equipment are limited to terms of two years and one year, respectively.

3860 Department of Water Resources

1. *Paterno* Lawsuit Settlement

Governor's Budget. The Governor's proposed budget includes a proposal to finance the pending settlement of the *Paterno* lawsuit by issuing a judgment bond in the budget year.

April 1 Finance Letter. The April Finance letter includes a proposal to provide \$11 million in General Fund monies to pay the settlement related to damage to the Peach Tree Mall facility.

April 25 Finance Letter. A Finance letter dated April 25 includes proposals to finance the remaining *Paterno* lawsuit. The proposal includes the following components in addition to the \$11 million proposed in the April 1 Finance letter:

- **Arkwright-Boston Manufacturers Mutual Insurance Company.** The letter proposes to provide \$25 million General Fund to settle with tenants of the Peach Tree Mall.
- **Livaich et al.** The letter proposes to provide \$67.1 million General Fund to pay the first payment of a \$428 million settlement with over 3,000 other plaintiffs in the *Paterno* lawsuit. The plaintiffs have agreed to take an upfront payment from the firm of Merrill Lynch and Company. The state would then finance the settlement with Merrill Lynch over the next ten years with annual appropriations in the budget act.

Staff Recommendation. Staff recommends that the Subcommittee approve the administration's proposal to fund the *Paterno* lawsuit.

2. Flood Management in Crisis

Background. Flood management encompasses both structural flood control projects (levees, weirs, etc.) and floodplain management (land use decisions in floodplains). As the state has become increasingly urbanized, flood management has emerged as a critical and integral part of our infrastructure across the state from the Santa Clara Valley to the Los Angeles River. This continues today as areas of the state that were formerly agricultural, mainly in the Central Valley, develop sizeable suburban communities.

Many of these new communities are being built behind levees and flood control structures that are old and badly in need of repair, and which were never designed to protect homes. Upgrading these structures is costly and the state bears a large share of the costs (as much as 70 percent of the non-federal share). This has been further exacerbated by the *Paterno* decision which found the state solely liable for damages caused by a failed levee in the Central Valley. Despite these mounting state costs, the state has generally reduced its expenditures on floodplain management activities and routine maintenance of the state's aging flood infrastructure over the last several years. This has resulted in the current flood management crisis in California.

Previous Subcommittee Direction. At the April 25 meeting of the Subcommittee the Governor's budget change proposals and April Finance letter proposals for flood management were approved. Staff, LAO, DOF, and the department were also directed to work on trailer bill language that would prohibit planning agencies from approving a development unless the local agency can identify sufficient flood protection to protect new residential developments.

Staff Comments. Staff has developed trailer bill language that would require new subdivisions to have adequate flood protection before they are approved. This language has been shared with the administration.

Staff Recommendation. Staff recommends that the Subcommittee adopt the following trailer bill language:

Add the following provision to the Government Code:

(a) On and after January 1, 2007, a city, county, or city and county shall not approve a subdivision map that includes a residential use where the property is protected by a flood control levee unless:

(1) the first habitable floor of the residential use is at least one foot above the maximum flood level that would result if the levee failed in a reasonably foreseeable flood event based on substantial evidence in the written record, or

(2) the levee provides, based on substantial evidence in the written record, the following levels of flood protection against a reasonably foreseeable flood:

- (i) not less than one percent probability of flooding of the residential use in any one year for a subdivision approved before January 1, 2008
- (ii) not less than 0.75 percent probability of flooding in any one year for a subdivision approved on and after January 1, 2008 and before January 1, 2012
- (iii) not less than 0.50 percent probability of flooding in any one year for a subdivision approved after January 1, 2012.